

**REMARKS/ARGUMENTS**

Claims 1-38 are pending in the instant application. Claims 1-38 stand rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,239,871 to Gilby. Claims 22-38 are also rejected "in view of applicant's own admission of prior art". These rejections are respectfully traversed.

However, solely to expedite prosecution, and without admission express or implied that the rejection is properly founded, applicants herein cancel claims 22-38 without prejudice. Accordingly, the rejections of these claims has been obviated and applicants respectfully submit that these rejections should be withdrawn. Applicants reserve the right to prosecute the cancelled claims in one or more continuation or divisional applications.

Reconsideration of the rejection of claims 1-21 is respectfully requested.

The present invention claims an optical analysis chamber having an elongate tubular body which defines both an elongate sample passageway (the interior of the chamber) and an optically transmissive window. The optically transmissive window is formed between the substantially convex outer surface portion of the tubular body wall and the interior surface of the body wall so as to have a non-uniform thickness about the sample passageway.

Applicants respectfully submit that Gilby clearly does not include each and every limitation of the claims of the present invention. Furthermore, Gilby fails to disclose, teach, or suggest the present invention. Gilby discloses an optical scheme including a hyper-hemisphere and a hemisphere, both with a substantially planar surface. The substantially planar surface of the hyper-hemisphere is optimally located so that a capillary or cell (sample passageway) can be positioned at an internal aplanatic radius, resulting in an aplanatic focus at the capillary or cell such that the spherical aberration and coma are zero (Abstract and Figure 2A). Thus, unlike the claimed invention, the sample passageway in Gilby is not defined by the optically transmissive body.

Further, as is seen in Figure 2A of Gilby, the substantially planar surfaces of the hyper-hemisphere and the hemisphere, 102 and 110 respectively, are mated such that the grooves 104 and 112 form a channel 114. A capillary or cell (sample passageway) is then inserted into this channel, and the air space between the channel and capillary is filled (Col. 4, ll. 24-51). Contrary to the current invention, the sample passageway (cell or capillary) in the optical apparatus of Gilby is clearly separated from the other components (Col. 4, ll.24-51; Claim1). In view of these comments, Applicants respectfully submit that the present invention is patentably distinct from Gilby. Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the amendments and remarks hereinabove, Applicants respectfully submit that claims 1-21 of the present application is in condition for allowance. Early and favorable action thereon is respectfully requested.

Any questions with respect to the foregoing may be directed to Applicant's undersigned agent at the telephone number listed below.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on September 18, 2003.

Signature: 

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